IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.7430 of 1995

Between:

Cheminor Drugs Limited, A company incorporated under the companies Act 1956, having its Registered Office at 7-1-27,
Ameerpet, Hyderabad-500 016, rep. by its Managing Director Mr. G.V.Prasad.

...PETITIONER

AND

1. Presiding Officer, The Additional Industrial Tribunal-cum-Additional Labour Court, 1st Floor, Chandravihar, M.J.Road, Hyderabad – 500 001.

2. Mr.Y.Sai Kishore, S/o.Ram Mohan Rao, C/o.Sri V.Mallik, D.No.3-6-725, Himayathnagar, Hyderabad – 500 029.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records pertaining to G.O.Rt.No.470, dated 4th January, 1995 issued by the Joint Secretary to Government, Labour employment and Training (Lab I) Department pursuant to the award dated 24th September, 1994 in I.D.No. 318 of 1993 of the first Respondent herein viz. the Additional Industrial Tribunal-Cum-Additional Labour Court, 1st Floor, Chandravihar, M.J.Road, Hyderabad - 500 001, and quash the same by the issuance of Writ, more particularly in the nature of a Writ of certiorari or any other appropriate Writ, order or direction as this Hon'ble Court may deem fit and proper, in so far as it erects the payment of wages between 25th September, 1990 to the date of the award and the consequent direction to pay interest in case of failure to pay the same, award the costs to the petitioner and render justice.

Counsel for the Petitioner: MR.C.R.SRIDHARAN

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: None appeared

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.7430 of 1995

ORDER:

Heard the learned counsel for the petitioner.

Though served, none appears for the second respondent.

The petitioner herein which is a management seeks to assail the award dated 24.09.1994 in I.D.No.318 of 1993 on the file of the first respondent herein, whereunder, having heard that the removal of the petitioner from service, though valid, but following the principles laid down by the Supreme Court in ***Desh Raj Gupta v. Industrial Tribunal IV, U.P.***, granted the relief of wages to the second respondent from 25.09.1990 till the date of award.

Learned counsel appearing for the petitioner submits that having regard to the fact that the principles as laid down in ***Desh Raj Gupta v. Industrial Tribunal IV, U.P.*** (supra), which was subsequently been overruled by the Apex Court as per the judgment referred in ***Punjab Dairy Development Corporation Ltd., etc., v. Kala Singh etc.,*** , there is no dispute to the facts or findings as were awarded by the first respondent herein and hence, it is not necessary to dwell into the same. It is suffice to know that the direction as given by the first respondent herein for payment of wages was based upon the earlier judgment of the Apex Court in ***Desh Raj Gupta***

v. Industrial Tribunal IV, U.P. (supra), whereas the same was subsequently overruled by the Apex Court in the subsequent judgment in ***Punjab Dairy Development Corporation Ltd., etc., v. Kala Singh etc.,*** (supra). In view of the same, it is to be held that no such directions are permissible and the award is liable to be set-aside.

The Writ Petition is accordingly allowed and the order dated 24.09.1994 of the first respondent is set-aside to the extent of payment of wages to the second respondent from 25.09.1990 till the date of award. It is needless to mention that if any amounts are paid in the meanwhile under the award, the same can be recovered by the petitioner.

With the above observations, the Writ Petition is allowed.

-

-

(B.PRAKASH RAO, J)

1st December 2004

RRB

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday,

the first day of December 2004.

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Presiding Officer, The Additional Industrial Tribunal-cum-Additional Labour Court, 1st Floor, Chandravihar, M.J.Road, Hyderabad – 500 001.
2. Two CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT).
3. Two CD copies.